

APPENDIX.

Committee Room,
Austin, Texas, January 18, 1907.
Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Education, to whom was referred

Senate bill No. 80, A bill to be entitled "An Act creating the Blossom Independent School District, in Lamar county, Texas,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that same be not printed.

BARRETT, Chairman.

TENTH DAY.

Senate Chamber,
Austin, Texas,
Monday, January 21, 1907.

Senate met pursuant to adjournment. Lieutenant Governor A. B. Davidson in the chair.

Roll call, quorum present, the following answering to their names:

Alexander.	Looney.
Barrett.	Masterson.
Brachfield.	Mayfield.
Chambers.	Meachum.
Glasscock.	Murray.
Green.	Paulus.
Greer.	Senter.
Griggs.	Skinner.
Grinnan.	Smith.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Veale.
Hudspeth.	Watson.
Kellie.	Willacy.

Absent.

Faust. Stokes.

Prayer by Chaplain, as follows:

O Lord, our kind heavenly Father, we rejoice at this beautiful bright day. We thank Thee for the hope that it inspires in us; for the promises of Thy word. May Thy grace come to us this morning and give us an uplift toward that we may seek in all things to honor Thy name by doing those things which are pleasing in Thy sight. Help us to be faithful in whatever we attempt during the business of this day, that all of our words and actions may be for the advancement of Thy kingdom. Forgive our sins and smile graciously upon us for Christ's sake. Amen.

Pending the reading of the Journal of yesterday, on motion of Senator Terrell, the same was dispensed with.

(See Appendix for committee reports and petitions and memorials.)

BILL ORDERED PRINTED IN JOURNAL.

Austin, Texas, January 21, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Internal Improvements, to whom was referred

Senate bill No. 55, A bill to be entitled "An Act to authorize the commissioners courts of the several counties of Texas to create and establish drainage districts, etc.,"

Beg leave to report back to the Senate that this bill be printed in the Journal in order that the members of this body may familiarize themselves with the contents of same.

BRACHFIELD, Chairman.

On motion of Senator Brachfield, the above report was adopted, and the bill is as follows:

S. B. No. 55. By Griggs, Masterson.

A BILL

To be Entitled

An Act to authorize the commissioners courts of the several counties of Texas to create and establish drainage districts, to construct canals, drains and ditches, to make levees, improve streams and water courses, and make other improvements for the purpose of drainage; to order and hold elections for the purpose of voting on drainage propositions and authorizing the issuance of bonds and levy of tax, and to issue bonds in payment for such drainage improvements and the maintenance thereof, and to levy and to collect taxes for the payment of such bonds, the appointing of drainage commissioners and all other necessary officers of such drainage districts for the purpose of carrying into effect the provisions of this act; granting the right of eminent domain to such drainage districts, and authorizing the drainage commissioners to acquire by purchase, gift or grant, for such district, title to any right-of-way and other property, and generally authorizing the county commissioners court and the drainage commissioners to do all things necessary for the establishing

and maintenance of such districts according to the provisions of this act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The county commissioners courts of the several counties of this State may hereafter establish one or more drainage districts in their respective counties in the manner hereinafter provided, and may or may not include within the boundaries and limits of such districts, villages, towns and municipal corporations, or any portion thereof, but no land shall at the same time be included within the boundaries of more than one drainage district created under this act.

Such drainage districts when so established may make drainage improvements therein and issue bonds in payment therefor as hereinafter provided.

Sec. 2. Upon the presentation to the county commissioners court of any county in this State of a petition (accompanied by the deposit provided for in Sec. 31 of this act) signed by twenty-five or more of the freehold resident citizens, tax payers of any proposed drainage district, whose lands may be affected thereby, praying for the establishing of a drainage district and setting forth the necessity, public utility and feasibility thereof, and designating a name for such drainage district, the said commissioners court shall, at the same session when said petition is presented, set down for hearing at some regular or special session of said court, called for that purpose, not less than thirty nor more than sixty days from the presentation of said petition, and shall order the clerk of said court to give notice of the date and place of said hearing by posting a copy of said petition, and the order of the court thereon, in five public places in said proposed district, one of which shall be at the court house door of said county, and four of which shall be within the limits of said proposed drainage district. The said clerk shall receive as compensation for such service one dollar for each such notice, and five cents per mile for each mile necessarily traveled in posting such notices.

Sec. 3. Upon the day set by said county commissioners court for the hearing of said petition any person whose land would be affected by the creation of said district may appear before said court and contest the creation of such

district or contend for the creation of said district, and may offer testimony to show that said district is or is not necessary and would or would not be of any public utility, either sanitary, agricultural or otherwise, and that the creation of such drainage district would or would not be feasible or practicable. Said county commissioners court shall have exclusive jurisdiction to hear and determine all contests and objections to the creation of such district, and all matters pertaining to the same, and said court shall have exclusive jurisdiction in all subsequent proceedings of the district when organized, except as hereinafter provided, and may adjourn hearing on any matter connected therewith from day to day, and all judgments rendered by said court in relation thereto shall be final, except as hereinafter otherwise provided.

Sec. 4. If at the hearing of said petition it shall appear to the court that the drainage of such district is feasible and practicable, and that it is needed; that the drainage would be conducive to the public health or would be a public benefit or a public utility, then the court shall so find and cause its finding to be entered of record. But if the court should find that the drainage of said district is not feasible and practicable, or that the drainage of such district is not needed, and that it would not be conducive to health or a public benefit, or would not be a public utility, then the court shall enter such finding of record and dismiss the petition at the cost of the petitioners.

Sec. 5. After the hearing of the petition as provided for in Sections 3 and 4 of this act, if the court should find in favor of the petitioners, then the court shall appoint a competent civil engineer who shall receive the sum of five dollars (\$5) per day for his services for the time he is actually engaged in the work for which he is appointed, and said engineer is authorized to employ two assistants who shall receive the sum of two dollars per day for the time they are actually engaged in the work.

Sec. 6. Before entering upon his official duties the civil engineer shall enter into a bond in the sum of five hundred dollars (\$500), with two or more sureties to be approved by the commissioners court, and payable to the county judge, for the use and benefit of the drainage district, conditioned on the faithful discharge of his official duties under the provisions of this act.

Sec. 7. The civil engineer shall as soon as practicable, or within such time as may be directed by the county commissioners court, go upon the premises and land embraced within the district and examine the land supposed to be drained and protected by levees and shall locate the necessary canals, drains and ditches, laterals and levees, and make an estimate of the probable cost of making and completing each of them, and shall also designate the stream or streams and bayous necessary to be cleaned, deepened or straightened, and estimate the cost of each, and shall at once make a detailed report of his work to the court.

Sec. 8. In locating the canals, drains and ditches the engineer shall, in so far as the same may be practicable, follow the lines of the original surveys or of the sections where the land has been sectionized.

Sec. 9. Such report of the engineer shall be accompanied by a map showing the nature or beginning point, as well as the outlets of all canals, drains, ditches and laterals, and shall show the length, width, depth and slopes of the banks of the cut or excavation, and the estimated number of cubic yards of earth to be removed from each, and shall show the location and size of all ledges and the estimated number of cubic yards of earth necessary to construct the same; a copy of the official land office map of the county, with the boundaries of the drainage district and the beginning points and outlets of all canals, drains, ditches and laterals and other data required by this section shown thereon, shall be deemed a sufficient compliance with this section.

Sec. 10. When such report of the engineer shall have been filed with the clerk of the county commissioners court it shall be the duty of said court at its next regular or special session to set such report down for hearing at some subsequent regular or special session not less than twenty nor more than thirty days, from the date of such setting, and to instruct the clerk of said court to give notice of said hearing by posting notices in the same manner and for the same compensation as is provided for in Section 2 of this act in regard to the original notices of the filing of the petition. At the hearing on said engineer's report any freehold tax payer of said district whose lands may be affected by said drainage improvements, whether he be a resident of such district or not, may appear and object to any and all of

said canals, drains, ditches and levees for the reason that they are not located at the proper places or that they are not sufficient in number or capacity to properly drain said territory.

Sec. 11. If there should be no objection to said report or if there should be objection thereto and the court should find that the objections are not well taken, the report shall be approved, and the fact of such approval entered of record on the minutes of said court; but the commissioners court shall not be confined to the number of drains, ditches, canals or levees or to the initial points or outlets of same, as located and shown by said report of the engineer, and may change the location of any of the said improvements or may add to the number of same or reduce the number of same and order the engineer to locate any additional canals, drains, ditches or levees, as directed by the court, and the commissioners court, if it deem it necessary, refer the entire report back to the engineer for a compliance with the orders of the court and require a further report.

Sec. 12. After the approval of the report of the engineer as provided for in the preceding section of this act, the county commissioners court shall order an election to be held within such proposed drainage district at the earliest possible legal time, at which election there shall be submitted the following propositions, and none others: "For the drainage district and the issuance of bonds and levy of tax in payment therefor."

"Against the drainage district and the issuance of bonds and levy of tax in payment therefor."

Sec. 13. Notice of such election, stating the time and place of holding the same, shall be given by the clerk of the court by posting notice thereof in five public places in such proposed drainage district, and one at the court house door of the county in which such district is situated. Such notices shall contain the proposition to be voted upon as set forth in Section 12 of this act, and shall also specify the purposes for which said bonds are to be issued.

Sec. 14. The manner of conducting said election shall be governed by the election laws of the State of Texas, except as herein otherwise provided. None but resident property tax payers, who are qualified voters of the said proposed district shall be entitled to vote at any election on any question submitted to the voters thereof by the county com-

missioners court at such election. The county commissioners court shall name an appropriate number of polling places for such election, all of which shall be in the proposed drainage district, and shall also select and appoint the judges and other necessary officers of the election, and shall provide one and a half times as many ballots for said election as there are qualified resident tax paying voters within such drainage district, as shown by the tax rolls of said county. Said ballots shall have printed thereon these words and no others:

"For the drainage district and issuance of bonds and levy of tax in payment therefor";

"Against the drainage district and issuance of bonds and levy of tax in payment therefor."

Sec. 15. Every person who offers to vote in any election held under the provisions of this act shall first take the following oath before the presiding judge of the polling place wherein he offers to vote, and the presiding judge is hereby authorized to administer the same: "I do solemnly swear (or affirm) that I am a qualified voter of _____ county, and that I am a resident property tax payer of the proposed drainage district voted on at this election and have not voted before at this election."

Sec. 16. Immediately after the election the presiding judge at each polling place shall make return of the result in the same manner as provided for in elections for State and county officers, and return the ballot boxes to the county clerk, who shall keep same in a safe place and deliver them, together with the returns from the several polling places, to the commissioners court at its next regular session, or special session called for the purpose of canvassing the vote, and the county commissioners court shall at such session canvass the vote, and if it be found that a two-thirds majority shall have been cast in favor of drainage and the issuance of bonds and levy of tax, then the court shall declare the result of said election to be in favor of said drainage district, and shall enter same in the minutes of the court as follows:

"Commissioners court of _____ County, Texas, _____ term, A. D. _____, in the matter of petition of _____ and _____ others, praying for the establishment of a drainage district in said petition fully described and designated by the name of _____ Drainage District."

"Be it known that at an election called

for that purpose in said district, held on the _____ day of _____, A. D. _____, a two-thirds majority of the voters thereat voted in favor of the creation of said drainage district and the issuance of bonds and the levy of a drainage tax. Now, therefore, it is considered and ordered by the court that said drainage district be, and the same is, hereby established, by the name of _____ Drainage District, within the following metes and bounds, to-wit: "

Sec. 17. After the establishment of any drainage district as herein provided, the commissioners court shall appoint three drainage commissioners, all of whom shall be residents of the proposed drainage district, who shall be freehold tax payers and legal voters of the county, whose duties shall be as hereinafter provided, and who shall each receive for their services the sum of two dollars and fifty cents (\$2.50) per day for the time actually engaged in the work for said district. Said drainage commissioners shall hold office for the term of two years, or until their successors have qualified, unless sooner removed by a majority vote of the county commissioners for malfeasance or non-feasance in office. Upon the expiration of the term of office of said drainage commissioners the commissioners court shall appoint their successors by a majority vote.

Sec. 18. Before entering upon their duties all drainage commissioners shall take and subscribe before the county judge an oath to faithfully discharge the duties of their office without favor or partiality and to render a true account of their doings to the court by which they are appointed, whenever requested to do so, which oath shall be filed by the clerk of the commissioners court and preserved as a part of the records of said drainage district.

Sec. 19. The drainage commissioners shall organize by electing one of their number chairman and one secretary, and two of whom shall constitute a quorum, and a concurrence of two shall be sufficient in all matters pertaining to the business of said district except the letting of contracts and the drawing of warrants on the treasury, which shall require the concurrence of all of said commissioners.

Sec. 20. After the establishment of any such district the drainage commissioners shall employ a competent civil engineer upon a salary not to exceed five dollars per day for the time actually engaged in work and whose term of office shall be at the will of said drain-

age commissioners, which civil engineer shall proceed to make a map of such district showing the boundary lines thereof with the original surveys therein, and also to make maps and profiles of the several canals, drains, ditches and levees located in such district, but a copy of the land office map of the county, as it applies to such district, showing the name and number of each survey and showing the area or number of acres contained in such district, shall be a sufficient compliance with such order, in so far as making a map of the district is required, and any recognized map of any city or town which may be embraced within the boundaries of said district shall be sufficient as to such city or town. Provided, however, that where the boundary lines of such drainage district or any of them crosses an original survey the map shall show how many acres of such original survey are included within such drainage district.

Sec. 21. The map and profiles of each drain, ditch and levee required by the provisions of this act to be made shall show the relation that each canal, drain, ditch or levee bears to each tract of land through which it passes and the shape into which it divides each tract and where the canal, drain, ditch or levee cuts off of any tract less than twenty acres of land, the map shall show the number of acres so divided therefrom and the number of acres in the whole tract, showing the shape of such small tract and its relation to the canal, ditch, drain or levee. And such profile map shall also show the number of cubic yards necessary to be excavated in order to make each canal, drain or ditch and to build any levee located in such district, and give the estimated cost of each, and when said map, profiles and estimates shall have been completed by the engineer as herein provided, he shall sign the same in his official capacity and file them with the clerk of said county commissioners court.

Sec. 22. After the establishment of any such drainage district, and after the making and filing of such maps, profiles and estimates, as provided for in Section 23 of this act, the commissioners court shall make an order directing the issuance of drainage bonds for such district, sufficient to pay for such proposed improvements, provided, however, that said bonds shall not exceed in amount one-fourth of the assessed value of the real property in such district as shown by the last annual

assessment thereof made for State and county taxation.

Sec. 23. All bonds issued under the provisions of this act shall be signed by the county judge and attested by the clerk of the county court, with the seal of the county court affixed thereto, and such bonds shall be issued in denominations of not less than one hundred nor more than one thousand dollars each, and such bonds shall bear interest at a rate not to exceed 5 per cent per annum, payable annually. Such bonds and interest shall by their terms be made payable at the county treasurer's office of the county in which such drainage district is located, and no bond shall be made payable more than forty years after date.

Sec. 24. Any drainage district in the State of Texas desiring to issue bonds in accordance with this act, shall, before such bonds are offered for sale, forward to the Attorney General a copy of the bonds to be issued, a certified copy of the order of the commissioners court levying the tax to pay interest and provide a sinking fund, and a statement of the total bonded indebtedness of such drainage district as such, including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the county, together with such other information as the Attorney General may require; whereupon it shall be the duty of the Attorney General to carefully examine said bonds in connection with the facts and the Constitution and laws on the subject of the execution of such bonds, and if, as a result of such examination, the Attorney General shall find that such bonds were issued in conformity with the Constitution and laws and that they are valid and binding obligations upon such drainage district by which they are issued, he shall so officially certify.

Sec. 25. When said bonds have been examined by the Attorney General and his certificate attached thereto, they shall be registered by the State Comptroller in a book to be kept for that purpose, and the certificate of the Attorney General to the validity of such bonds shall be preserved of record for use in the event of litigation. Such bonds after receiving the certificate of the Attorney General and having been registered in the Comptroller's office, as herein provided, shall thereafter be held in every action, suit or proceeding in which their validity is or may be brought in question, prima facie, valid

and binding obligations. And in every action brought to enforce collection of said bonds the certificate of the Attorney General or a duly certified copy thereof shall be admitted and received in evidence of the validity of such bonds, together with the coupons thereto attached: provided, that the only defense that can be offered against the validity of said bonds shall be forgery or fraud. But this article shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions, but all such bonds shall, to the extent of such excess, be held void.

Sec. 26. Before issuing any bonds under the provisions of this act the county commissioners court shall provide a well-bound book in which a record shall be kept by the county clerk of all bonds issued, with their numbers, amount, rate of interest and date of issue, when due, where payable and amount received for the same, and the annual rate per cent. assessment made each year to pay the interest on said bonds and provide a sinking fund for their payment. And said book shall at all times be open to the inspection of all parties interested in said district, either as tax payers or bond holders, and upon the payment of any bond an entry thereof shall be made in said book.

Sec. 27. When such bonds have been registered, as provided for in the preceding section of this act, the county judge shall, with the additional assistance that the county commissioners court may direct and authorize, offer for sale and sell said bonds on the best terms and for the best price possible, but none of said bonds shall be sold for less than the face par value thereof and accrued interest thereon, and as fast as said bonds are sold, all money received therefor shall be paid by the county judge to the county treasurer and shall by him be placed to the credit of such drainage district.

Sec. 28. Before the county judge shall be authorized to sell any of the drainage bonds he shall execute a good and sufficient bond, payable to the commissioners of such drainage district equal to twice the amount of bonds issued, which bond shall be subject to the approval of the said drainage commissioners, and the county judge shall be allowed 1 per cent. of the amount received on the sale of any bonds sold

by him, in full payment for his services in that behalf.

Sec. 29. All expenses of any kind, after the filing of the original petition necessarily incurred in connection with the creation, establishment and maintenance of any drainage district organized under the provisions of this act shall be paid out of "Construction and Maintenance Fund" of such drainage district, which fund shall consist of all money received from the sale of bonds and all other amounts received by said districts from whatever source, except the tax collections applied to the sinking fund and payment of interest on the drainage bonds. Provided, that should the proposition of the creation of such drainage district and issuance of bonds be defeated at the election called to vote upon same, then all expenses up to and including said election shall be paid in the following manner: When the original petition praying for the establishment of a drainage district is filed with the county commissioners court, it shall be accompanied by two hundred dollars in cash, which shall be deposited with the clerk of said county commissioners court and by him held until after the result of the election for the creation of said drainage district has been declared and entered of record by the commissioners court, as hereinbefore provided, and should the result of said election be in favor of the establishment of said district, then the said two hundred dollars shall be by said clerk returned to the signers of said original petition, or their agent or attorney; but should the result of said election be against the establishment of said drainage district, then said clerk shall pay out of the said two hundred dollars, upon vouchers signed by the county judge, all costs and expenses pertaining to the said proposed drainage district, up to and including the said election, and shall return the balance, if any, of said two hundred dollars, to the signers of said original petition, or their agent or attorney.

Sec. 30. Whenever any such district drainage bonds shall have been voted, the commissioners court shall levy and cause to be assessed and collected improvement taxes upon all property within said drainage district, whether real, personal, mixed or otherwise, and sufficient in amount to pay the interest on such bonds as shall fall due, together with an additional amount to be annually placed in a sinking fund, sufficient

to discharge and redeem said bonds at their maturity.

If advisable, the sinking fund shall, from time to time, be invested in such county, municipal, district or other bonds as shall be approved by the Attorney General of the State.

Sec. 31. The county commissioners court shall provide all necessary additional books for the uses of the assessor and collector of taxes for such drainage district, and charge the cost of same to the said drainage district.

Sec. 32. The tax collector of the county shall be charged by the county commissioners court with the assessment rolls of the drainage district and he shall be allowed such compensation for the collection of said taxes as he is now allowed for the collection of other taxes.

Sec. 33. It shall be the duty of the tax collector to make a certified list of all delinquent property upon which the drainage tax has not been paid and return the same to the county commissioners court, which shall proceed to have the same collected by the sale of such delinquent property in the manner as is now provided for the sale of property for the collection of State and county taxes, and at the sale of any property for any delinquent drainage tax the drainage commissioners may become the purchaser of the same for the benefit of the drainage district.

Sec. 34. It shall be the duty of the county treasurer to open an account with the drainage district and to keep an accurate account of all moneys received by him belonging to such district and of all amounts paid out by him. He shall pay out no money except upon a voucher signed by the drainage commissioners and countersigned by the county judge, and he shall carefully preserve on file all orders for the payment of money and as often as required by the said drainage commissioners or the county commissioners court, he shall render a correct account to them of all matters pertaining to the financial condition of such district.

Sec. 35. The county treasurer shall execute a good and sufficient bond, payable to the drainage commissioners of such district, in a sum equal to twice the amount of bonds issued, conditioned for the faithful performance of his duty as treasurer of such district, which bond shall be approved by said drainage commissioners, and the treasurer shall be allowed as full compensation for his services as such treasurer the same per

cent as now allowed by the county for his services as county treasurer.

Sec. 36. The right of eminent domain is hereby conferred upon all drainage districts established under the provisions of this act, for the purpose of condemning and acquiring the right of way over and through any and all lands, private or public, necessary for making the canals, drains, ditches and levees, and all improvements necessary to the drainage of the district, and the assessing of damages shall be in conformity to the statutes of the State of Texas for condemning and acquiring the right of way by railroads; provided that no appeal from the finding and assessment of damage by the commissioners appointed for that purpose shall have the effect of causing a suspension of work by the drainage commissioners in prosecuting the work of drainage in all of its details.

Sec. 37. The drainage commissioners of any district are hereby empowered to acquire the necessary right of way for all canals, drains, ditches and levees and other necessary improvements contemplated by this act, by gift, grant, purchase or condemnation proceedings, and if acquired by purchase, such purchase shall be subject to approval by the county commissioners court.

Sec. 38. All canals, drains, ditches and levees made, and water courses cleaned or constructed by any district shall be the public property of such district and every person owning land within said district shall have the right to drain into one or more of such public drains, and for such purpose shall be permitted at his own expense to make drains according to the natural slope of the land through such other lands as intervene between his land and the nearest public drain or water course, or along a public highway; provided, that no such drain through another's property or along a public highway shall be made until authorized by the drainage commissioners, who shall after notice by the party desiring to make such drain, go upon the premises and act as a jury of view, and determine the place where such drain may be made.

Sec. 39. Any person who shall wrongfully or purposely fill up, cut, injure or destroy or in any manner impair the usefulness of any canal, drain, ditch or water course, or other work constructed, repaired or improved under the provisions of this act for the purpose of drainage or protection from an overflow of water, shall be deemed guilty of a

misdemeanor, and on conviction may be fined in any sum not exceeding one hundred dollars or imprisoned in the county jail not exceeding two months.

Sec. 40. The drainage commissioners of any district and the civil engineer, from the time of their appointment, are hereby authorized to go upon any lands lying within said district for the purpose of examining the same, locating the canals, drains, ditches and levees, making plans, surveys, maps and profiles, together with all necessary teams, help, tools and instruments, without subjecting themselves to action of trespass, and any person who shall willfully prevent or prohibit any of such officers from entering any lands for such purposes shall be guilty of a misdemeanor and on conviction may be fined in any sum not exceeding twenty-five dollars for each day he shall so prevent or hinder such officer from entering upon any land, and any justice of the peace in the county shall have jurisdiction of all such offenses.

Sec. 41. Contracts for making and constructing canals, drains, ditches and levees, straightening and cleaning water courses, and other necessary work, in connection with any drainage district, shall be let by the drainage commissioners to the lowest bidder, after giving notice by advertising the same in one or more newspapers of general circulation in the State of Texas once a week for four consecutive weeks, and by posting notices for at least thirty days in five public places in the county, one of which shall be at the court house door, and at least two of which shall be within said drainage district, and the contract for each drain, canal, ditch or levee may be let separately or all together.

Sec. 42. Any person or corporation or firm desiring to bid on the construction of any work advertised for as provided for in the preceding section of this act, shall upon application to the drainage commissioners, be furnished with a copy of the engineer's report showing the location, profiles and estimates of such work as provided for in this act, and all bids or offers to do any of such work shall be in writing and sealed and delivered to the chairman of the drainage commissioners together with a certified check for at least 5 per cent of the total amount bid. Any and all bids may be rejected if deemed too high.

Sec. 43. All contracts made by the drainage commissioners shall be reduced to writing and signed by the contractors

and drainage commissioners and approved by the county judge, and a copy of same filed with the county clerk for reference.

Sec. 44. The party, firm or corporation to whom any such contract is let shall give bond, payable to the drainage commissioners for said district, in twice the amount of the contract price, conditioned that he, they, or it, will faithfully perform the obligations, agreements and covenants of their contract, and that in default thereof, will pay to said district all damages sustained by reason thereof. Said bond shall be approved by said drainage commissioners and the county judge.

Sec. 45. The drainage engineer shall furnish the contractor with a sectionized profile of the work contracted for, showing the depth, width and slope of all canals, drains, ditches and levees, and the number of cubic yards to be removed and other work to be done by the contractor, and such work shall be done by the contractor under the supervision of the drainage engineer, who shall indicate to the said contractor the points at which the laterals shall intersect the main canal, and no earth shall be deposited by the contractor so as to interfere with the construction of such laterals or other contemplated work in said drainage district, or the building of bridges or other work on the public roads, and when the work is completed according to contract the engineer shall make a detailed report of the same to the drainage commissioners showing whether the contract has been fully complied with according to its terms, and if not, in what particular it has not been so complied with.

Sec. 46. The drainage commissioners are hereby authorized and empowered to make all necessary bridges and culverts across or under any railroad track and right of way of such railway, to enable them to construct and maintain any canal, drain or ditch, necessary to be constructed as a part of the drainage system of such district, such bridges or culverts to be paid for by the drainage district; provided, however, that notice shall first be given by such drainage commissioners to the railway authorities, authorized to build or construct bridges and culverts, and the railway company shall be allowed thirty days in which to build such bridges or culverts at their own expense, if it should so desire, according to its own plans, provided such bridge or culvert shall be so constructed as to not interfere with the

free and unobstructed flow of the water passing through the canal or drain and shall be placed at such points as are designated by the drainage engineer.

Sec. 47. The drainage commissioners shall have the right, and it is hereby made their duty, at all times, during the progress of the work being done under contract, to inspect the same and upon the completion of any contract, they shall draw a warrant on the county treasurer for the amount of the contract price in favor of the contractor or his assignee, which warrant shall, when approved by the county judge, be paid out of the drainage fund of such district.

Sec. 48. If the drainage commissioners shall deem it advisable, in order to obtain more favorable contracts, they may advertise and contract for work to be paid for in partial payments as the work progresses, but such partial payments shall not exceed in the aggregate seventy-five (75) per cent of the total amount to be paid under the contract, the amount of work completed to be shown by a certified report by the engineer, and no payment to be made for work not completed.

Sec. 49. Whenever a drainage district has been established under the provisions of this act, no private individual, company or corporation, or adjoining drainage district, shall have the right to artificially drain adjacent lands located outside of such drainage district, into any canals, drains or ditches until they have acquired the legal right to do so as herein provided. Whenever any private individual, company or corporation or adjoining drainage district shall desire to secure an outlet for drainage by making a connection with any canal, drain or ditch already constructed by any established drainage district, he, they or it, shall make written application to the drainage commissioners of such established district for permission to make such connection, which application shall show the width, depth and length of such connecting drains or ditches and when such application has been filed with the drainage commissioners of the established district, the civil engineer shall make an estimate of the quantity of water which such connecting drains or ditches would probably empty into such established canals or drains and whether such established drains or canals have sufficient capacity to carry such excess of water without risk of damage thereto or the adjacent territory. And the engineer shall make

a report showing the result of his examination and estimate and the drainage commissioners of the established district may, if they deem advisable, authorize such connection, on condition, however, that such private individual, company or corporation or adjoining drainage district shall first pay into the county treasury for the benefit of the construction and maintenance fund of such established drainage district a sum of money which bears the same ratio to the cost of the original canal or drain from the point of connection to its outlet, that the water to be emptied therein by the connecting drain or canal bears to the water then tributary to and being carried by the drainage engineer unless the drainage commissioners for the established district shall otherwise agree with such parties making application for such connection.

Sec. 50. The drainage commissioners shall make an annual report of their acts and doings as such commissioners and file the same with the clerk of the county court on or before the first day of January of each year, which report shall show in detail the kind, character and amount of work done in the district, the cost of same and the amount paid out on orders and for what purposes paid, and other data necessary to show the condition of improvements made under the provisions of this act.

Sec. 55. The drainage commissioners are hereby empowered and authorized to employ counsel to represent such district in the preparation of any contract or the conducting of any proceedings in or out of court, and to be the legal adviser of such drainage commissioners, upon such terms and for such fees as may be agreed upon by them and approved by the county judge, and such commissioners shall draw a warrant or warrants in payment for such legal services.

Sec. 52. Neither the county judge or any county commissioner or drainage commissioner nor the drainage engineer shall be directly or indirectly interested for themselves or as agents for any one else in the contract for the construction of any work to be performed for such drainage district, and if said officers, or either of them, shall, directly or indirectly, become interested in any contract for such work, or in any fee paid by said drainage district, whereby he shall receive any money consideration or other thing of value, he shall be guilty of a misdemeanor and on conviction thereof shall be punished by im-

prisonment in the county jail for not less than six months nor more than one year.

Sec. 53. All drainage districts established under this act may, by and through the drainage commissioners sue and be sued, in all courts of this State, in the name of such drainage district, and all courts of this State shall take judicial notice of the establishment of all such districts.

Sec. 54. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 55. The fact that many counties and districts of Texas are anxious to organize drainage districts and are in great need of drainage, and that there is no law under which such districts can be properly formed, constitutes an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three separate days be suspended, and also that this act take effect from and after its passage, and it is so enacted.

BILLS AND RESOLUTIONS.

SIMPLE RESOLUTION.

By Senator Kellie:

Whereas, There is a necessity for an additional stenographer for the use of the Senate and to expedite the business thereof; therefore, be it

Resolved by the Senate, That Miss Jennie Doroughty, who is an expert stenographer, be and is hereby elected as such stenographer, and assigned to such committees or such general work for the Senate as the President thereof may designate.

Senator Kellie moved the adoption of the resolution, and

Senator Looney moved to refer the resolution to the Committee on Contingent Expenses.

Senator Meachum moved to table the motion to refer. The motion to table was lost by the following vote:

Yeas—12.

Alexander.	Kellie.
Brachfield.	Meachum.
Chambers.	Stone.
Griggs.	Terrell.
Holsey.	Watson.
Hudspeth.	Willacy.

Nays—13.

Glasscock.	Harper.
Green.	Looney.
Greer.	Mayfield.
Grinnan.	Murray.
Harbison.	Paulus.

Senter.
Skinner.

Veale.

Absent.

Barrett.
Faust.
Masterson.

Smith.
Stokes.

The motion to refer the resolution was adopted by the following vote:

Yeas—14.

Alexander.	Mayfield.
Green.	Murray.
Greer.	Paulus.
Grinnan.	Senter.
Harbison.	Skinner.
Harper.	Veale.
Looney.	Willacy.

Nays—11.

Brachfield.	Kellie.
Chambers.	Meachum.
Glasscock.	Stone.
Griggs.	Terrell.
Holsey.	Watson.
Hudspeth.	

Absent.

Barrett.	Smith.
Faust.	Stokes.
Masterson.	

By Senator Paulus:

Whereas, It is necessary that there should be in the office of the Sergeant-at-Arms a clerk in order to expedite business and to keep a record of all supplies purchased for use of the Senate, checking in and out said supplies, and which said clerk should also serve as clerk for Committee on Contingent Expenses; therefore, be it

Resolved, That C. T. Hancock be and is hereby elected to perform said duties, and that he be allowed \$5 per day for said services.

Paulus, Kellie, Chambers, Watson, Hudspeth, Terrell, Green, Meachum, Alexander, Griggs.

Referred to Committee on Contingent Expenses.

By Senator Chambers:

Be it resolved by the Senate of the State of Texas, That Senate bill No. 64, relating to elections, be withdrawn from Judiciary Committee No. 1, and referred to Committee on Privileges and Elections.

The resolution was read and adopted.

By Senator Terrell:

Be it resolved by the Senate of the State of Texas, That the President of the Senate is hereby authorized to assign one

of the committee clerks to the additional duty of sending out each day five copies of the Senate Journal for each Senator, the names and addresses of each party to whom said Journals are to be sent.

The resolution was read and adopted.

In accordance with the above resolution the Chair assigned E. J. Roberts, notarial clerk, to the duties provided therein.

By Senator Green:

Whereas, The committee appointed to investigate charges filed and that may be filed against Senator J. W. Bailey have decided to appoint one or more attorneys to represent the people in said investigation, and

Whereas, Said committee has also decided to employ an expert stenographer in connection with said investigation, and may find it necessary to incur additional expense in the conduct of said investigation, therefore, be it

Resolved, That said committee be and is hereby authorized and empowered to employ counsel, stenographers and all other necessary employes and incur such other expenses as it may believe necessary and proper to make, carry on and complete said investigation, and that any and all expenses so incurred be paid out of the contingent expense fund of the Senate.

(Signed) Green, Skinner, Looney, Greer, Brachfield, Stone, Senter.

The resolution was read and adopted.

BILLS.

By Senator Hudspeth:

Senate bill No. 86, A bill to be entitled "An Act creating an experiment station to be established at or near the city of El Paso, and making an appropriation therefor, and declaring an emergency."

Read first time, and referred to Committee on State Affairs.

By Senator Meachum:

Senate bill No. 87, A bill to be entitled "An Act to amend Article 2312 of Title XL, Chapter 4, of the Revised Civil Statutes of the State of Texas, pertaining to the admission of recorded instruments in evidence without proof of their execution, unless an affidavit be filed stating that such instrument of writing is believed to be a forgery; and providing that where such instrument against which an affidavit of forgery has been filed has been duly of record for more than five years the burden of proof shall be upon the party for whose benefit such affidavit of forgery is filed, to show such instrument to be a forgery; and provid-

ing further for the admission of such instrument during the trial, the introduction of evidence relating thereto, the determination and trial of such issue raised, as well as for the admission of a certified copy of such instrument in case of loss or inability to procure the original and regulating the procedure in regard thereto where such affidavit of forgery has been filed, and repealing all laws in conflict herewith and creating an emergency."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Griggs:

Senate bill No. 88, A bill to be entitled "An Act to amend Article 1532, Chapter 1, Title XXXII, Revised Statutes of Texas, relating to county commissioners precincts, and providing for subsequent redistricting thereof, the same to be amended so as to read as follows:"

Read first time, and referred to Committee on Constitutional Amendments.

By Senator Griggs:

Senate bill No. 89, A bill to be entitled "An Act to amend Article 5212b, page 1064 of the Revised Civil Statutes of the State of Texas, relating to suits for the collection of delinquent taxes, and the pleading of the statute and limitation in connection therewith."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Paulus:

Senate bill No. 90, A bill to be entitled "An Act to amend Chapter 80 of an act passed by the Twenty-sixth Legislature at its regular session of 1889, and amended by an act passed by the Twenty-eighth Legislature at its regular session, entitled 'An Act to create a more efficient road system for Wharton county and Lavaca county, in the State of Texas, and making county commissioners of said counties ex-officio road commissioners, prescribing their duties, etc.'"

Read first time, and referred to Committees on Roads, Bridges and Ferries.

By Senator Harper:

Senate bill No. 91, A bill to be entitled "An Act to define who are peddlers, and declaring all persons who go from house to house and place to place making a sale of or offering to sell merchandise by retail or taking orders or offering to take orders for the future delivery of merchandise, regardless of the mode and the manner of delivery; providing for the mode and manner of obtaining and the issuance of license, and keeping a record of same; levying an occupation

tax on such persons, and providing a penalty for the violation of this act."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Veale:

Senate bill No. 92, A bill to be entitled "An Act to incorporate Wellington school district in Collingsworth county as an independent school district, and to provide for the election of trustees, raising revenue by taxation, issuing bonds and maintaining public free schools."

Read first time, and referred to Committee on Education.

By Senator Hudspeth:

Senate bill No. 93, A bill to be entitled "An Act for the protection of persons hiring labor in advance."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Meachum:

Senate bill No. 94, A bill to be entitled "An Act to amend Article 325 of Title V, Chapter 4, of the Code of Criminal Procedure of the State of Texas, pertaining to the taking of bail in felony cases when court is in session, and authorizing the sheriff or other peace officer having in custody the accused, to take a bail bond, and repealing all laws in conflict herewith."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Green:

Senate bill No. 95, A bill to be entitled "An Act to provide for the appointment and qualifications of auditors for the various counties and judicial districts of the State, providing for the manner of appointment, the duties of said officers, the compensation allowed, general provisions of a complete auditing system, duties of all officers and institutions in connection therewith, providing penalties for failure to comply with the act, making this act cumulative of other provisions in the present laws and repealing all laws and parts of laws in conflict herewith, and adding an emergency clause."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone:

Senate bill No. 96, A bill to be entitled "An Act to amend Section 3 of Chapter 128 of the General Laws of the State of Texas, passed at the regular session of the Twenty-ninth Legislature, entitled 'An Act to provide for recording notices lis pendens and levies, to define the effect of such notice, and to repeal all laws

in conflict therewith,' and to declare an emergency."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Griggs:

Senate Joint Resolution No. 5, To amend Section 18, Article 5, of the Constitution of the State of Texas, so as to provide for subsequent redistricting of a county into commissioners precincts, defining the manner thereof, for submitting the same to the electors of the State and making an appropriation therefor.

Read first time, and referred to Committee on Constitutional Amendments.

Morning call concluded.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, January 21, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted

The majority report of joint committee appointed for the purpose of arranging for the election of a United States Senator.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

ADJOURNMENT.

On motion of Senator Willacy, the Senate adjourned until tomorrow morning at 9 o'clock.

APPENDIX.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, January 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 52, A bill to be entitled "An Act to define the duties of railroad companies in this State with respect to shipping live stock, and to require that they promptly furnish cars for such shipments, and fix penalties for failure of such duty,"

Have had the same under consideration, and I am instructed to report it

back to the Senate with the recommendation that it do pass.

LOONEY, Chairman.

Committee Room,
Austin, Texas, January 18, 1907.

Hon. A. B. Davidson, President of the Senate:

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 8, A bill to be entitled "An Act to prohibit railway companies, street railway companies, interurban railway companies, or any other chartered common carrier or transportation companies, or express or sleeping car companies, or the receivers or lessees thereof, or their officers, agents or servants in this State, from carrying persons free of charge, or carrying property free of charge, or giving to or for any person or passenger a free pass or authority to travel or pass free or to have property transported free over any line or lines owned, operated or controlled by any such company in this State, and naming certain persons who are excepted from the prohibition; also prohibiting any of said companies, their officers, agents, employees, receivers or lessees from discriminating among persons in rates and service; prohibiting any person not excepted from using or enjoying such free pass or transportation, or from becoming the beneficiary of any discrimination and prescribing suitable penalties, fines and imprisonment for the violation of the provisions of the act, providing for prosecutions, fixing venue of suits and appropriating any penalties that may be collected hereunder."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with the committee amendment attached thereto.

LOONEY, Chairman.

Committee Room,
Austin, Texas, January 21, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Commerce and Manufactures, to whom was referred

Senate bill No. 33, A bill to be entitled "An Act to confer the power of eminent domain upon interurban electric railway companies, to regulate the exercise thereof, to permit such companies to construct their railways along and across highways, steam railways, roads, canals, streets, streams, bays, navigable waters and arms of the sea, and to regulate the manner thereof; providing for the making this law cumulative of the Gen-

eral Laws of the State of Texas, and providing an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

MASTERSON, Chairman.

Committee Room,
Austin, Texas, January 21, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Internal Improvements, to whom was referred

Senate bill No. 7, A bill to be entitled "An Act for the relief of railway corporations and belt and suburban companies having charters granted or amended since the first day of January, 1887, and which have failed or about to fail to construct their roads and branches, or any part thereof, within the time required by law,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with the following amendment: Strike out the following last clause in Section 1, "and the provisions of this act shall extend to and embrace suburban and belt railroads heretofore chartered under the laws of this State."

BRACHFIELD, Chairman.

Committee Room,
Austin, Texas, January 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance, Statistics and History, to whom was referred

Senate bill No. 36, A bill to be entitled "An Act to amend Article 3049 of Chapter 2, Title LVIII, Revised Statutes of the State of Texas, relating to insurance, and prescribing a penalty for failing to comply with same,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

TERRELL, Chairman.

Committee Room,
Austin, Texas, January 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 21, A bill to be entitled "An Act to amend Article 1442 of Title XXX, Chapter 20, of the Revised Civil

Statutes of the State of Texas, pertaining to giving security for costs,"

And find the same correctly engrossed.
BARRETT, Acting Chairman.

Committee Room,
Austin, Texas, January 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 12, A bill to be entitled "An Act to amend Title XVIII, Chapter 3, of the Revised Civil Statutes of the State of Texas, by adding thereto Article 400a, pertaining to the appointment of policemen in cities and towns and requiring them to take an oath of office and make a good and sufficient bond, and declaring an emergency,"

And find the same correctly engrossed.
BARRETT, Acting Chairman.

PETITION.

By Senator Hudspeth:

San Angelo, Texas, January 12, 1907.

Hon. C. B. Hudspeth, Senate Chamber,
Austin, Texas.

Sir: We, the undersigned citizens of Tom Green and adjoining counties, realizing the great damage to the live stock interests of the State by depredation of wolves, panthers and other wild animals, urgently request that you introduce and have passed, if possible, a bill carrying an appropriation for the extermination of such animals and for the payment of scalp bounties for such animals killed within the State.

Signed by 150 citizens of Tom Green and adjoining counties.

ELEVENTH DAY.

Senate Chamber,
Austin, Texas,

Tuesday, January 22, 1907.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

No quorum present, the following Senators answering to their names:

Alexander.	Murray.
Brachfield.	Paulus.
Greer.	Smith.
Holsey.	Stone.
Kellie.	Terrell.
Looney.	Watson.
Mayfield.	Willacy.

Absent.

Barrett.. Chambers.

Faust.	Hudspeth.
Glasscock.	Masterson.
Green.	Meachum.
Griggs.	Senter.
Grinnan.	Skinner.
Harbison.	Stokes.
Harper.	Veale.

There being no quorum present, the Senate was at ease until 10 o'clock, at which time a quorum was present, the following Senators answering to their names:

Alexander.	Looney.
Barrett.	Masterson.
Brachfield.	Mayfield.
Chambers.	Meachum.
Faust.	Murray.
Glasscock.	Paulus.
Green.	Senter.
Greer.	Skinner.
Griggs.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Watson.
Hudspeth.	Willacy.
Kellie.	

Absent.

Veale.

Prayer by Chaplain, as follows:

We are devoutly grateful, our heavenly Father, for the mercies that are still pursuing us from day to day, and the many kindly surroundings with which we are blessed this morning. This new day's obligations and duties require new strength and wisdom. Oh, Lord, give us bountifully of Thy presence to guide in the way we should go, and may all of our powers be employed to glorify Thy name and for the good of our country. Forgive our sins and love us freely for Christ's sake. Amen.

Pending the reading of the Journal of yesterday, on motion of Senator Harbison, the same was dispensed with.

EXCUSED.

On motion of Senator Barrett, Senator Faust was excused for non-attendance upon the Senate on yesterday, on account of important business.

On motion of Senator Grinnan, Senator Veale was excused from attendance upon the Senate for today, on account of important business.

BILLS AND RESOLUTIONS.

SIMPLE RESOLUTION.

By Senator Senter:

Resolved, That it is the sense and